

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22144 of 2014

Prakash Chandra Himanshu Son of Late Mahabir Prasad resident of Village - Mozaffara, P.O. - Bardih Via Islampur, District - Nalanda Bihar at present posted as S M S Animal Schience Krishi Vigyan Kendra, Manjhi, Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Rajendra Agricultural University, Bihar, Pusa, Samastipur, through its Registrar.
3. The Vice Chancellor, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
4. The Registrar, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
5. The Director Administration, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
6. The Director Extension Education, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
7. The Comptroller, Rajendra Agricultural University, Bihar, Pusa, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar Jha
For the Respondent/state:		Mr. Subodh Prasad Singh, Govt. Advocate 3
For the University	:	Mr. Vijay Shankar Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

10 19-08-2025 1. Heard the parties.

2. The instant writ application has been filed for quashing the letter no. 02 Estb. / 413 / RAU, Pusa dated 04.11.2014 issued under the signature of the Director Administration, Rajendra Agricultural University, Pusa (in short “RAU”) whereby the petitioner was directed to submit NET passing certificate within one month, failing which, his services would be terminated. The petitioner further prays for a direction upon



the respondents to act in accordance with Advertisement No. 01/2006/RAU/ Pusa dated 22.02.2006 and to permit him to continue on the post of Subject Matter Specialist (Animal Science).

3. The I.A. No. 9751 / 2016 has been filed for impleading Dr. Rajendra Prasad Central Agricultural University, Pusa, Samastipur as a party respondent in view of enactment of Dr. Rajendra Prasad Central University Act, 2016 whereby the erstwhile RAU stood converted into a Central University.

4. The brief facts giving rise to the present writ application is that RAU issued Advertisement No. 01/2006 dated 22.02.2006 inviting applications for various posts including the post of Training Associate / Subject Matter Specialist (SMS). The essential qualification prescribed was Master Degree with 55% marks and clearance of NET. However, exemption from NET was available to candidates possessing two years experience in teaching / research / extension education in reputed institutions and preference was to be given to Ph.D. holders. A corrigendum dated 15.05.2006 was subsequently issued in continuation of the aforesaid advertisement stipulating that candidates who had not cleared NET would be required to qualify it within three years of appointment failing which their



services shall be terminated without notice. This condition however was not applicable to Ph.D. degree holders. The petitioner applied for the post of Training Associate (Subject Matter Specialist) under the said advertisement enclosing his educational qualifications and experience certificate. After completion of the recruitment process in 2008 he was appointed as Training Associate (SMS) vide appointment letter dated 30.05.2008 and joined on 06.06.2008 at Krishi Vigyan Kendra, Saran. Along with the appointment an agreement bond was executed on 04.06.2008 between the petitioner and the University. Clause (iii) of the agreement bond provided that those candidates who did not have either Ph.D., NET or two years experience at the time of appointment would be required to clear NET within three years of appointment, failing which, their services would stand terminated without notice.

5. The petitioner discharged his duties to the full satisfaction of the respondents. On 20.03.2012 the petitioner was served with letter no. 321 directing him to submit the NET certificate by 05.06.2013 noting that while the appointment letter required clearance of NET within three years, the period has been extended to five years expiring on 05.06.2013 yet no information about his qualification has been received. In



response, the petitioner submitted a representation enclosing his experience certificate relying upon clause (iii) of the agreement bond and asserting his three years experience in AICRP (ICAR) at Bihar Veterinary College, Patna. The said certificate was verified by the Principal of Bihar Veterinary College, who confirmed its genuineness and the same was duly accepted by the Committee of the University. On that basis, the University vide letter no. 40 dated 16.01.2013 granted exemption to the petitioner from the requirement of NET.

6. By the impugned letter dated 04.11.2014 the Director Administration recalled the exemption on the ground that certain retired Junior Scientists - cum- Assistant Professors namely, Rakesh Kumar , Rita Kumari , Shambhu Kumar , Anuj Kumar Chaudhary and Mohan Tanti had objected to the grant of such exemption. It was alleged that since on the last date of submission of application the petitioner had only 01 year 06 months and 15 days of experience against the mandatory requirement of two years consequently it was decided that the petitioner must submit his NET qualification certificate within one month of receipt of the letter failing which his services would be terminated. The impugned order was stayed by this Court vide order dated 24.12.2014.



7. A second supplementary affidavit has been filed by the petitioner stating therein that the petitioner after completing probation applied through proper channel for the post of Touring Travelling Veterinary Officer advertised by the BPSC and was duly selected. His candidature was forwarded by the University, and he was formally relieved to join the new post. Despite confirmation of this fact by the Director Administration, the petitioner's repeated requests for grant of lien, supported by reminders, were neither accepted nor rejected, reflecting arbitrariness and mala fide conduct on the part of the University.

8. Learned counsel for the petitioner argued that impugned action is wholly arbitrary, without jurisdiction and vitiated by non- application of mind. It was argued that the only binding document governing the petitioner's service is the agreement bond, which clearly stipulates that eligibility in terms of experience is to be reckoned at the time of appointment and not at the stage of submission of the application. By June, 2008 when the petitioner was appointed he had already acquired more than three years of valid experience duly certified by the competent authority and verified by the University. Having consciously granted exemption on 16.01.2013 the University lacked authority to review or recall its order in 2014 as no



statutory power of review is vested in the Director Administration.

9. Reliance now sought to be placed by the University upon certain terms and conditions of the advertisement is misconceived inasmuch as no such terms were ever published along with the advertisement nor ever supplied to the petitioner at the time of appointment. The only binding document governing the service of the petitioner is the agreement bond. Clause (iii) of the agreement bond clearly says that an appointee who does not possess Ph.D. / NET qualification at the time of appointment but has two years teaching, research or extension experience shall not be required to clear NET. Only such candidates who lacked both qualifications as well as the prescribed experience at the time of appointment were required to obtain NET within three years.

10. It is further submitted that the petitioner had been engaged as a Junior Research Fellow under an All India Coordinated Research Project funded by ICAR, New Delhi and by the time of his appointment in 2008 he has already acquired more than three years of valid research experience. This experience was duly certified by the Project Investigator, authenticated by the Principal, Bihar Veterinary College, Patna



and thereafter verified and accepted by the University. Accordingly, in terms of Clause (iii) of the agreement bond the petitioner was fully exempted from the requirement of clearing NET.

11. It is lastly submitted that during pendency of this writ application the petitioner has also cleared NET examination in 2016 and a certificate to that effect has been annexed by way of supplementary affidavit. Hence, even if there had been any technical infirmity earlier, the same now stands fully cured and the petitioner now fully satisfies the eligibility criteria.

12. In support of his submission the petitioner relies upon the Hon'ble Supreme Court's judgment in Ram Sarup versus State of Haryana and Ors. reported in (1979) 1 SCC 168 in which it has been held that even if a candidate lacked the required experience at the time of appointment the same stood regularized upon acquiring such experience during service.

13. On the other hand, learned counsel for the respondents argued that the petitioner never possessed the requisite qualification or experience at the relevant stage. The advertisement under which the petitioner had applied clearly prescribed that all candidates must possess the prescribed qualification and requisite experience on the last date for



submission of application. The petitioner was not having the experience of two years as on the cut off date and was only having experience of 1½ years. He further submits that exemption granted to the petitioner vide University letter no. 40 dated 16.01.2013 was not in accordance with law. The Committee which considered his case has erroneously reckoned experience acquired after the closing date of application. Such post application experience could never be counted in view of explicit conditions of the advertisement. The exemption was therefore irregular and contrary to rules. No authority can perpetuate an illegality and once the University discovered the error, it was not only competent but duty bound to rectify the same. The impugned order dated 04.12.2014 requiring the petitioner to produce his NET certificate was issued only to correct this earlier mistake and to bring the petitioner's case in conformity with the statutory conditions of advertisement and the binding terms of the agreement bond.

14. I have heard learned counsel for the parties and have gone through the material on record. The principle issue for determination is whether the petitioner possessed the requisite two years experience by the relevant date. The respondents contended that eligibility must be reckoned as on the last date of



submission of application whereas the petitioner contention is that it should be reckoned as on the date of appointment. This Court finds that in the agreement bond there is a clause of relaxing the requirement of NET if a candidate is having two years teaching and research experience. The petitioner was appointed and was issued appointment letter on 30.05.2008 and agreement bond was executed on 04.06.2008 between the petitioner and RAU authority. The appointment letter says that appointment shall be governed by the agreement bond executed by the candidate at the time of his joining. Clause (iii) of the agreement bond says that if the first party is having neither Ph.D. / NET qualification nor two years experience (teaching / research / extension) at the time of appointment, has to clear NET examination within three years of his / her appointment failing which his / her services would be terminated without notice. It is not disputed that the petitioner at the time of his appointment was having the requisite experience of two years. Thus, the stipulation for exemption from NET in clause (iii) has to be construed with reference to the qualification and experience possessed by the appointee when he actually joined his post and not at the stage of application. It is in this background that the University exempted the petitioner by letter



dated 16.01.2013 from passing the NET examination within three years even otherwise it is not a case of illegal or fraudulent appointment.

15. Considering the aforesaid discussion and the fact that as on the date of appointment the petitioner was having requisite experience, as such, exemption granted from passing the NET examination by the University was legally valid. In any case, the petitioner has now passed the NET examination.

16. In the result, this writ application is allowed.

17. The impugned letter dated 04.11.2014 (Annexure-8) is hereby quashed.

(Anil Kumar Sinha, J)

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